IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3812 OF 2005

Bharat Laxman Shinde ...Applicant

vs.

State of Maharashtra ...Respondent

Mr.P.G.Chavan i/b Mr.S.S.Patwardhan for the Applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 11,2005.

P.C.:

1. Heard learned Advocate for the Applicant and the learned A.P.P. for State. The Applicant is the husband of the deceased against whom the offence has been registered punishable under sections. 498-A, 304-B, 306 read with Section 34 of the Indian Penal Code. The other two accused viz. the parents of the Accused have been enlarged on bail. The first application made by the Applicant before the Sessions Court was rejected. The second application was filed after filing of the Charge-sheet which has been rejected.

2. Even according to the prosecution case for a period of at least one month prior to 14th February 2005 when the deceased committed suicide, she was staying with her parents and in fact the suicide was committed by hanging herself at the residence of her parents. F.I.R. is filed on the basis of the complaint of the father of the deceased. It is alleged that there was a constant demand by the Applicant and two

accused from the deceased for dowry and she was being ill-treated and to avoid any harm to her the deceased was staying in the house of her parents. The case of the prosecution is that on 14th February 2005 the Applicant called up the deceased on the telephone in the house of the parents of the deceased and on telephone he demanded a sum of Rs.1,00,000/- for purchase of flat and also told that unless the said amount is paid, he will not co-habit with the deceased. It is stated that after one hour the Applicant again gave her two telephone calls and she also called back to the Applicant on his cell phone.

3. Thus according to the case of the prosecution, on the very day on which the deceased committed suicide, the demand was made by the Applicant for dowry by contacting the deceased on the telephone in her parents' house. In the complaint filed by the father, it is not the case made out that for a period of one month when the deceased was residing with her parents, the Applicant or anyone on his behalf made any demand for dowry. Investigation made does not reveal that any telephone call was received by the Applicant on his cell phone or any call was received from the Applicant on the telephone which is in the house of the complainant. In the investigation though cell phone of the Applicant is seized by the police, nothing was found to show that on the fateful day the deceased made any phone call on the cell phone of the Applicant.

4. Charge sheet has been filed long back. The Applicant is in custody from 14th February 2005. Considering the peculiar circumstances of the case viz. that the suicide has taken place in the house of the parents of the deceased one month after the deceased started staying with the parents, and considering the failure of the prosecution to bring prima facie material on record at this stage to show that there was a telephone conversation between the Applicant and the deceased on the date of incident, in my view a case is made out for enlarging the Applicant on bail.

5. Hence I pass the following order ;

i) The Applicant shall be enlarged on bail in connection with C.R.No.1 of 2005 registered with Nesari Police Station, Taluka Gadhinglaj, District Kolhapur subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) Bail is granted subject to condition that till the conclusion of trial, the Applicant shall not enter the area falling within the jurisdiction of Nesari Police Station, Taluka Gadhinglaj, District Kolhapur.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall

not in any manner tamper with prosecution evidence.

iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE